

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF OPTOMETRISTS

IN THE MATTER OF THE
SUSPENSION OR REVOCATION OF
THE LICENSE OF

JOHN M. IPPOLITO, O.D.
LICENSE NO. OA 542600

TO PRACTICE OPTOMETRY
IN THE STATE OF NEW JERSEY

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Administrative Action

MODIFIED FINAL ORDER
OF DISCIPLINE

This matter came before the New Jersey State Board of Optometrists upon information that the respondent has failed to complete fifty (50) credits of continuing education in approved optometry courses during the period of May 1, 2003 to April 30, 2005, as required for the 2005-2007 biennial license renewal pursuant to N.J.S.A. 45:12-9.3 and N.J.A.C. 13:38-4.5. Based upon information received and which the Board has reviewed, the following preliminary findings are made:

FINDINGS OF FACT

1. Respondent is an optometrist in the State of New Jersey and has been a licensee at all times relevant hereto.
2. On April 12, 2005 the respondent returned his completed application for renewal of license as an optometrist in the State of New Jersey. (Exhibit A, a copy of the renewal application is attached and made a part hereto.) and

3. The respondent affirmed on the renewal application for the 2005- 2007 renewal period that he will have completed the required continuing education by the period proceeding the established renewal date of April 30, 2005.

4. On the 30th day of June, 2005, the Board of Optometrists initiated a random audit of renewal applications for the 2005-2007 period, asking licensees to submit proof with regard to the satisfaction of continuing education requirements for the biennial renewal period, i.e., fifty (50) credit approved hours which includes twenty-five (25) credits in general optometric education and twenty-five (25) credits in courses or programs classified as therapeutic pharmaceutical agents (“TPA”).

5. On or about July 7, 2005 Respondent informed the Board he had not attained any of the 50 requisite continuing education credits by April 30, 2005 as required for renewal of his license to practice optometry. (Exhibit B is a copy of the respondent’s letter attached to and made a part hereof.)

6. Respondent failed to submit proof to the Board of having completed any credit hours of continuing education. (Exhibit C is the affidavit of Susan Gartland, Executive Director, attached and made a part hereof.)

CONCLUSIONS OF LAW

1. Respondent has not satisfied the requirements of N.J.S.A. 45:12-9.3 and N.J.A.C. 13:38-7.3 with regard to the completion of the appropriate number of approved continuing education credit hours and is therefore subject to sanctions pursuant to N.J.S.A. 45:1-21(h), failure to comply with the provisions of an act or regulation administered by the Board, which constitutes grounds for

suspension or revocation of any certificate, registration or license, and grounds for sanction pursuant to N.J.S.A. 45:1-25.

2. Respondent attested to the completion of 50 continuing education credits by April 30, 2005 on the biennial renewal application but has submitted additional information indicating that he failed to obtain any of the requisite continuing education credits required for renewal of his license to practice optometry. Therefore, respondent is subject to sanctions pursuant to N.J.S.A. 45:1-21(b) has engaged in the use or employment of dishonesty, deception or misrepresentation, which constitutes grounds for the suspension or revocation of any certificate, registration or license, and grounds for sanctions pursuant to N.J.S.A. 45:1-25.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending respondent's license to practice Optometry in the state of New Jersey was entered on August 17, 2005 and a copy was served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the State Findings of Facts or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor. On August 29, 2005 the respondent submitted correspondence through his attorney, James Schragger, explaining that Respondent had special circumstances warranting eliminating or severely reducing the monetary penalties imposed in the provisional order. Respondent informed the Board

that he had three children under the age of 5 and one of his children was severely ill and had reconstructive cardiac surgery. Thus, Respondent had to run his practice exclusively working 60 hours per week and helping his wife at home the remainder of the time. Respondent expressed his sincere sorrow for deceiving the Board as to his meeting the continuing education requirements. Although respondent admits that he was not truthful with the Board and was unprofessional he believes that the penalty imposed proves to be a severe financial hardship on him.

Respondent's submission was reviewed by the Board, and the Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The credits for continuing education must be obtained biennially by each holder of an active license during the period proceeding the established license renewal date as required by N.J.S.A. 45:12-9.3. The Board recognized that while Respondent had a ill child at home, he continued to operate his practice sixty hours a week. The Board also recognized that Respondent made no attempts to obtain his continuing education credits over the two year period. The Board noted that the Respondent could have made a good faith effort to satisfy the continuing education requirements by obtaining 20 of the 50 courses through internet courses which would not have required the Respondent to leave his home or family. The Board finds that the satisfaction of continuing education credits is a statutory obligation imposed upon all actively licensed practitioners of optometry. Respondent's failure to obtain any credits is found to be a blatant disregard for the Board's statutes and regulations and constitutes practicing below standards. Thus, the Board determined that respondent must complete his fifty (50) continuing education credits within sixty (60) days of the filing date of this Final Order. The Board also determined that it will not reduce or eliminate the penalty imposed in the Provisional Order. However, to ease the financial burden on the Respondent, the Board has agreed

to allow Respondent to remit the payment of the penalty in installment payments over an 18 month period as specified below.

THEREFORE, IT IS ON THIS 19th **DAY OF April, 2006,**

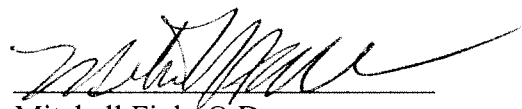
ORDERED:

1. Respondent shall pay a civil penalty of ten thousand dollars (\$10,000.00) pursuant to N.J.S.A. 45:1-25. This amount consists of \$5,000 for violation of N.J.S.A. 45:12-9.3, N.J.A.C. 13:38-7.3 and N.J.S.A. 45:1-21(h) as evidenced by your failure to satisfy the continuing education requirements and \$5000 for violation of N.J.A.C. 45:1-21(b) for falsely affirming on the license renewal application that the continuing education credits were completed in full in the specified time frame. Payment is to be remitted by means of a certified check or money order, payable to the New Jersey State Board of Optometrists. Such payment is to be sent to the Board of Optometrists, attention Susan Gartland, Executive Director at 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101, over a period of eighteen months commencing on May 1, 2006 with a payment of \$555.55 and the final and eighteenth payment due on June 15, 2007 in the amount of \$555.65.

2. Respondent submitted proof of having satisfactorily completed the requisite fifty (50) hours of continuing education credits within sixty (60) days of the date of the receipt of the Final Order. These continuing education credits are NOT to be used to renew respondent's license for the 2007-2009 renewal period. Accordingly, the license of respondent remains active.

3. In the event that the respondent defaults on any of the installment payments imposed by this Order, a certificate of debt will be filed in the Superior Court of New Jersey for the outstanding balance.

NEW JERSEY STATE BOARD
OF OPTOMETRISTS

By: 
Mitchell Fink, O.D.
President